Supreme Court, U.S.
FILED
MAR 21 2002
OFFICE OF THE CLERK

No. 01- 1419

IN THE

Supreme Court of the United States

EUGENE B. BOWLER,

Petitioner,

v.

STATE OF MAINE, ET AL.,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

EUGENE B. BOWLER
9 Rockbrook Drive
Camden, Maine 04843
(207) 236-4708

Pro Se

March 21, 2002

BATEMAN & SLADE, INC. BOSTON, MASSACHUSETTS

80pp

QUESTIONS PRESENTED

I. Whether the United States District Court was correct in dismissing this case because I had not answered certain interrogatories put to me by the Defendants while I had applied for an en banc review of a denial of a Petition for Writ of Prohibition in this matter from the United States Court of Appeals (01-1489) and was awaiting their decision?

II. Whether the said interrogatories asked by the Defendants were relevant to the constitutionality and/or vagueness of the statute(s) and or issue involved?

III. Whether I had answered these interrogatories sufficiently the first time?

IV. Whether it is constitutional to use "discovery" and other legal technicalities, i.e., complex interrogatories to effectively interpose them between a person and their constitutional protections and effectively nullify them?

V. Whether the Maine Stalking Statute 17-A MRSA § 210-A(1.1) is unconstitutional under and an insult to at least the First, Ninth and Tenth Amendments to the United States Constitution and void for vagueness and effectively suspends the right to due process of law under the Fifth Amendment as regards the right of a person to know the specific charge against him? Whether the Maine Law, custom or usage that allows one person to secretly and without their consent to record another person and for that recording later

to be used as evidence against them is unconstitutional under at lest the First and Fifth Amendments.

THE PARTIES TO THE PROCEEDING

The parties to the proceedings in the United States Court of Appeals for the First Circuit are those in the caption.

TABLE OF CONTENTS

QUESTIONS PRESENTED i

THE PARTIES TO THE PROCEEDINGS ii

OPINIONS BELOW 1

JURISDICTION 1

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED 2

STATEMENT OF THE CASE 2

REASON FOR GRANTING THE WRIT 3

CONCLUSION 6

TABLE OF AUTHORITIES

CONSTITUTIONAL PROVISIONS AND CODES:

United States Constitution
- First Amendment ..... i, ii, 2, 3, 4, 5
- Fifth Amendment ..... ii, 2, 4, 5
- Ninth Amendment ..... i, 2, 4
- Tenth Amendment ..... i, 2, 4

United States Code
- 28 U.S.C. § 1254(1) 1

Maine Statutes
- 17-A M.R.S.A. § 210-A (1.1) ..... i, 2, 3

PETITION FOR A WRIT OF CERTIORARI

To the United States Court of Appeals for the First Circuit Eugene B. Bowler respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the First Circuit in this case.

OPINIONS BELOW

The Order of the Court of Appeals for the First Circuit (2/25/02) is at (App. 1a); the Judgment (12/27/01) is at (App. 3a); the Addendum to Request for En Banc Review is at (A. 4a); the Opinion (12/27/01) is at (A. 5a); the Judgment (5/21/01 is at (App. 20a); and the Order (6/29/01) is at (App. 21a).

JURISDICTION

The opinions and judgment of the United States Court of Appeals for the First Circuit were entered on December 27, 2001. A rehearing *en banc* was denied on February 25, 2001. This Court's jurisdiction is invoked pursuant to 28 U.S.C. § 1254(1).

Filing of the petition was accomplished within ninety days of the Court of Appeal's order affirming the judgment of the United States District Court dismissing the petitioner's petition for declaratory judgment on the constitutionality of certain Maine statutes.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Constitution to the United States, First Amendment, Fifth Amendment, Ninth Amendment and Tenth Amendment. Relevant portions of the Maine statute 17-A M.R.S.A. § 210-A reproduced in the Appendix at (A. 26a).

STATEMENT OF THE CASE

The Plaintiff/Appellant/Petitioner was arrested in Camden Maine by the Camden Police Department for the crime of stalking (17-A MRSA § 210-A(1.1). Elizabeth Jane Boogusch, M.D. (see related case USSC No. 01-153). On August 3, 2000. On October 19th, 2000 under an "accord and satisfaction" the Plaintiff was discharged! The Plaintiff had to agree to a Protection from Harassment Order lasting for one year, however!

Plaintiff sued Defendants in as much as he asked for a Declaratory Judgment in the United States District Court, District of Maine on the constitutionality of the Maine Stalking Statute and the methods of obtaining and allowing evidence and also on the validity of the statute due to vagueness. The United States District Court dismissed the case because the Plaintiff had not answered certain interrogatories to the satisfaction of the Defendants and while the Plaintiff was waiting for an en banc review of denial for a Petition for Writ of Prohibation on the issue before trying to answer them again. The United States

Court of Appeals for the First Circuit upheld the dismissal.

REASON FOR GRANTING THE PETITION

The Maine Stalking Statute 17-A MRSA, § 210-A(1.1) is intrinsically unconstitutional under the First Amendment of the United States Constitution as it says if a person engages in a "course of conduct" directed at another specific person that would in fact cause a reasonable person to suffer intimidation, or serious inconvenience, annoyance or alarm, etc., he is guilty of stalking; "course of conduct" means repeatedly (2 or more times, maintaining a visual or physical proximity) to a person or repeatedly conveying oral or written threats, threats implied by conduct or a combination of threats and conduct. . . . God gave us our eyes and the First Amendment protects our right to use them and thus a law restricting visual and/or physical proximity is intrinsically unconstitutional.

The State of Maine defines stalking in very vague terms, e.g., intimidation, serous inconvenience, annoyance or alarm, these terms may be interpreted in many ways and indeed cast a very wide net, i.e., stalking may occur if one stalks with a gun at 1:00 A.M. or our Saviour Christ stalks us all with His Divine love! The term "stalking" may be a rather "politically correct" issue with legislators?

As a result of a very long police surveillance, etc., that seems to have lead to my arrest

for stalking (see "discovery") it seems they were concerned with where I walked on a public street and where I looked and who I looked at all actions protected by the First Amendment – freedom of speech and by inference of expression. What judge or jury would believe that a man walked by the street of the woman he loved and he did not look in the direction of her house? Or, passed by her in person and failed to look loving at her? In my case the *allegation* was added that I hired a licensed private investigator to see if the woman I love had any boyfriends – the investigator went to the Camden Police Department and they set up a "sting" operation and the investigator recorded secretly an interview with me in my house and denied when asked if he was recording. One does not go to a licensed investigator if they wanted to commit a crime, it seems! To record a person without their knowledge or consent is against the First Amendment as it interferes with freedom of speech and can put one in fear of consequences of speaking and against the Fifth Amendment: "due process" one should not be able to secretly record without a warrant; or be made a "witness against themselves". This law is also unconstitutional under the Ninth and Tenth Amendments retained and reserved rights of the People, for one of the most basic of human rights is freedom of expression!

It seems almost certain I would not have been arrested without a letter written by Elizabeth Jane Boogusch, M.D., at the request of the Camden Police Chief. Most of the events in the letter deal with where I walk, what or who I looked at and what I said, all actions protected by

the First Amendment as long as they are not threatening; but the most important statement in the letter, that I crossed the street three times to follow her is untrue (or incorrect)! Such behavior would be most aggressive and out-of-character and serve no purpose. It seems that is what got me arrested for stalking (see "discovery").

No *specific* cause or course of conduct was given for my stalking arrest and thus the intrinsic vagueness of this law effectively suspends the right of Habeas Corpus! As a result of an accord and satisfaction all further proceedings against me were stayed and I, the defendant, was discharged; however I had to agree to a Protection from Harassment Order that lasted for at least one year, which order is unconstitutional as it restricts my rights as to where I can walk on a public road and prohibits my freedom of speech and expression, e.g., writing to a certain person all violations of the First Amendment. Under this order there is a metamorphosis from a civil to a criminal status and a warrantless arrest, if violated, which are against the Fifth Amendment "due process".

As regards to the United States District Court dismissing this case because I refused to answer certain interrogatories put to me by the Defendants (1) I already did answer the questions (not to their liking), (2) the questions were not relevant to the issues of vagueness or constitutionality of statute(s) involved, (3) they ask me to admit allegations never proven in court and could be used against me in some way contrary to my Fifth Amendment right not to be a witness against

myself, and (4) would put a heavy burden if not impossible one on me to attempt to answer some of the "contention" ones. Some of the questions about Dr. Elizabeth Jane Boogusch came from her harassment complaint and were not given as a course of conduct for my stalking arrest.

The Maine Stalking Statute is intrinsically unconstitutional and vague to the point of voidness. In a way the "framers" rather admit this when they say in the statute "course of conduct" does not include activity protected by, e.g., the United States Constitution.

CONCLUSION

On or about March 13, 2002 I was informed a complaint for harassment was filed against me with the Camden Maine Police Department. It seems that Elizabeth Jane Boogusch, M.D., and a girlfriend were jogging on and the friend with or without the concurrence of Dr. Boogusch said I looked at her (them) and I passed them for a second time on a loop around the road. The Camden Police met me on the road the next day and "suggested" I change my walking schedule! It seems the Maine stalking and harassing statutes cast an infinitely wide net! These odious statutes are as much, if not more, intolerable and destructive to our personal liberty and freedom as any enacted by George III and his ministers.

I have lived in Camden Maine for over 30 years and I am a 65 year old and walk for metal and physical health about 8-10 miles a day in 4½

hours. I should not have to live in fear of being picked up by the police and taken to jail when I walk.

Of what value are *our* magnificent constitutional protections if legal technicalities (e.g., discovery and complex or irrelevant interrogatories) can be interposed between them and the person to be protected and in effect nullify our constitutional protections.

For all the foregoing reasons Petitioner, Eugene B. Bowler respectfully prays that his petitioner for writ of certiorari should be granted.

Respectfully submitted,

EUGENE B. BOWLER
9 Rockbrook Drive
Camden, Maine 04843
(207) 236-4708

Petitioner Pro Se

APPENDIX TABLE OF CONTENTS

APPENDIX A

Order of the Court entered February 25, 2002, United States Court of Appeals for the First Circuit 1a

APPENDIX B

Judgment entered December 27, 2001, United States Court of Appeals for the First Circuit 3a

APPENDIX C

Addendum to Request for En Banc Review 4a

APPENDIX D

Opinion dated December 27, 2001 of the United States Court of Appeals for the First Circuit 5a

APPENDIX E

Interrogatories and Request for Production of Documents to the Plaintiff by the Defendant Andrew Ketterer 8a

APPENDIX F

Judgment entered May 21, 2001, United States Court of Appeals for the First Circuit 20a

APPENDIX G

Order of the Court entered June 29, 2001, United States Court of Appeals for the First Circuit 21a

APPENDIX H

Order of Motion to Dismiss dated June 5, 2001, United States District Court, District of Maine 23a

APPENDIX I

Judgment entered June 6, 2001, United States District Court, District of Maine 25a

APPENDIX J

Relevant Portions of the Maine Statute — 210-A. Stalking 26a

APPENDIX K

Complaint for Violation of 17-A M.R.S.A. Section 210-A {1.1} Stalking – Class D 28a

APPENDIX L

Narrative report 30a

APPENDIX M

Complaint for Protection from Harassment (5 M.R.S.A. §§ 4651 et seq.) ... 36a

APPENDIX N

Narrative report 39a

APPENDIX O

Letter from Elizabeth J. Boogusch, M.D. to Chief Philip Roberts, Camden Police Department, dated July 31, 2000 ..... 52a

APPENDIX P

State of Maine Bail Bond 54a

APPENDIX Q

State of Maine Bail Bond 56a

APPENDIX R

Letters from defendant to plaintiff in harassment case 59a

APPENDIX S

Accord and Satisfaction, State of Maine, District Court 61a

APPENDIX T

Order for Protection, State of Maine, District Court 63a

APPENDIX A

United States Court of Appeals
For the First Circuit

No. 01-1885

EUGENE B. BOWLER,
Plaintiff, Appellant,

v.

STATE OF MAINE, ET AL.,
Defendants, Appellees.

Before
Boudin, Chief Judge,
Stahl, Senior Circuit Judge,
Torruella, Selya, Lynch and Lipez,
Circuit Judges.

ORDER OF COURT
Entered: February 25, 2002

The panel of judges that rendered the decision in this case having voted to deny the petition for rehearing, and a majority of the judges in regular active service not having voted to rehear the case en banc, it is order that the petition for

rehearing and suggestion for rehearing en banc be denied.

By the Court:
Richard Cushing Donovan, Clerk

By: /s/ JANICE M. O'NEIL
Chief Deputy Clerk

CC: Eugene B. Bowler
William R. Fisher, Esq.

APPENDIX B

United States Court of Appeals
For the First Circuit

No. 01-1885

EUGENE B. BOWLER,
Plaintiff, Appellant,

v.

STATE OF MAINE, ET AL.,
Defendants, Appellees.

JUDGMENT

Entered: December 27, 2001

This cause came on to be submitted on the briefs and original record on appeal from the United States District Court for the District of Maine.

Upon consideration whereof, it is now here ordered, adjudged and decreed as follows: The Judgment of the District Court is Affirmed.

By The Court:
Richard Cushing Donovan, Clerk

By: /s/ JULIE GREGG
Appeals Attorney

Certified Copies:
Judge D. Brock Hornby
William S. Brownell – Clerk of Court

CC: Eugene B. Bowler
William R. Fisher, Esq.

APPENDIX C

United States Court of Appeals
for the First Circuit
Boston, Massachusetts

No. 01-1885

Eugene B. Bowler

Plaintiff-Appellant

v.

State of Maine, et al.

Defendants-Appellees

Addendum to Request for En Banc Review

I suffer from a handicap of which the defendants are aware – it is obsessive – compulsive disorder and makes living very difficult and makes it extremely difficult if not impossible to answer some of the defendants carefully constructed interrogatories and demands for documents.

Respectfully submitted,

Eugene B. Bowler
Eugene B. Bowler, Pro Se

9 Rockbrook Drive
Camden, Maine
Tel. 207-236-4708

January 10th, 2002

I certify I have this day sent a copy of this instrument to the defendants attorney G. Steven Rowe, Maine Attorney General, 6 State House Sta., Augusta, ME 04333 by U.S. mail. January 10, 2002 – Eugene B. Bowler

APPENDIX D

[NOT FOR PUBLICATION- NOT TO BE CITED AS PRECEDENT]

United States Court of Appeals
For the First Circuit

No. 01-1885

EUGENE B. BOWLER,
Plaintiff, Appellant,

v.

STATE OF MAINE, ET AL.,
Defendants, Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MAINE
[HON. D. BROCK HORNBY, U.S. DISTRICT JUDGE]

Before
Torruella, Chief Judge,
Stahl, Senior Circuit Judge,
and Lynch, Circuit Judge.

Eugene B. Bowler on brief pro se.
G. Steven Rowe, Attorney General, and William R. Fisher, Assistant Attorney General, on brief for appellees.

December 27, 2001

Per Curiam. Eugene Bowler filed this pro se action in an effort to challenge the constitutionality of Maine's "stalking" statute. See 17-A Me. Rev. Stat. Ann. § 210-A. The action ended up being dismissed because of his noncompliance with a court order directing that he respond to defendants' interrogatories (and their accompanying requests for production of documents). See Fed. R. Civ. P. 37(b)(2)(C). Such a disposition is reviewed only for abuse of discretion. See, e.g., National Hockey League v. Metrop. Hockey Club, Inc., 427 U.S. 639, 642 (1976) (per curiam). Finding none, we affirm.

There is no need for extended discussion, particularly since Bowler has offered little in the way of pertinent argumentation on appeal. A number of factors support the district court's decision. For example, the various objections voiced by Bowler to the interrogatories prove to have been baseless. He protested that providing complete answers would impose an intolerable burden and would implicate Fifth Amendment concerns, but he never elaborated in either regard. He also complained that many of the questions were "not relevant"—overlooking, among other things, the fact that his as-applied constitutional challenges were necessarily fact-dependent. In any event, whatever the merit of his objections, Bowler persisted in his recalcitrance even after being ordered to furnish appropriate responses. As to other points, we note that the interrogatories were limited in scope and number; that defendants undertook no other discovery; that Bowler was familiar with the judicial process; and

that he likely would not have prevailed on his underlying constitutional claims.

To be sure, Bowler could retort that he was appearing pro se; that he had otherwise acted in prompt fashion; that the case was relatively young; and that he had not been specifically warned that dismissal might ensue. Yet he has not done so.[1] Instead, to excuse his noncompliance with the district court order, Bowler points out that a challenge thereto was pending before this court by way of a "petition for writ of prohibition." This argument fails for several reasons. First, that petition was patently without merit, inasmuch as the discovery order was a garden-variety, discretionary ruling that was neither appealable nor subject to mandamus review. See, e.g., Bennett v. City of Boston, 54 F.3d 18, 20-21 (1st Cir. 1995) (per curiam). Second, by the time the dismissal here occurred, Bowler's petition had been denied by this court and was the subject of a request for en banc review—a frivolous filing. Finally, as the district court noted, Bowler never sought a stay of the discovery order pending his attempt to obtain appellate relief.

Affirmed.

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[1] The cited factors would not have been dispositive in any event. See, e.g., Velazquez-Rivera v. Sea-Land Service, Inc., 920 F.2d 1072, 1078 n.9 (1st Cir. 1990) (stopping short of any suggestion that lack of prior warning was "controlling").

APPENDIX E

United States District Court
District of Maine

EUGENE B. BOWLER, Plaintiff,	)
vs.	)
	) Civil No. 00-218-B-H
STATE OF MAINE and ATTORNEY GENERAL ANDREW KETTERER Defendants	)

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS TO THE PLAINTIFF BY THE DEFENDANT ANDREW KETTERER

Definition

For purposes of these interrogatories, the term "the injury" and its variants refer to the damages you claim because of the allegations in your Complaint in this case.

Identifying Information

1. Identify yourself by stating your full name, date of birth, social security number, present street address, current employer(s) and job title.

1a. Not relevant to the issue of vagueness or constitutionality of the statutes involved 17-A MRSA Sec. 210-A(1.1).

2. State the name(s) and address of your present or former spouse(s), the date(s) of your marriage(s) and divorces, and the name(s), address(es), age(s), and date(s) of birth of all your children and dependents.

2a. Not relevant to the issue of vagueness or constitutionality of statutes involved.

Request For Production Of Documents: attach true copies of all documents relied upon in preparing your answer to this interrogatory, including copies of all divorce decrees and orders regarding child and spousal support.

Jobs & Education/Training

3. State the name(s), address(es) and telephone numbers of all of your employer(s) during the past 10 (ten) years, including the date(s) of your employment, your job title(s), a brief description of your duties, the name(s) of your supervisors, your yearly income and the reason(s) why you left each job.

3a. Not relevant to the issue of constitutionality of statutes involved or vagueness.

Request For Production Of Documents: attach true copies of all documents relied upon in preparing your answer to this interrogatory.

4. State the name and address of every school and course of instruction you attended, including the date(s) of your attendance, the date(s) of graduation, awards received, your grade point average(s), kind of training you received, degrees and certificates awarded, as well as any license(s) or certificate(s) that allow you to practice a trade or profession.

4a. Not relevant to issue of constitutionality of statutes involved or vagueness.

Request For Production Of Documents: attach true copies of all degrees, licenses, transcripts, certificates and diplomas you obtained as a result of your attendance at each school or course of instruction.

Conviction Information

5. Identify all crimes you have been convicted of or pleaded *nolo contendere* to, including the name(s) of each crime, the date(s) the crime(s) was committed, the date(s) of each conviction and plea, the name and address of the court(s) where the conviction was recorded, the docket number(s), the sentence(s) imposed and the name(s) and address(es) of your attorney(s).

Request For Production Of Documents: attach true copies of each of all your convictions and any other documents you relied upon in answering this interrogatory.

Other Suits

6. Identify all legal actions that you and/or ~~your spouse~~ have been involved in as either a plaintiff or a defendant, including claims for personal injury, civil rights violations, discrimination, disability claims, property loss, social security claims, workman's compensation, the Federal Employers' Liability Act, and any disputes involving state and federal tax authorities. Include in your answer the type of each such suit or claim, the name(s) of the other parties involved, the name(s) and address(es) of every court, commission and agency involved, the docket and/or claim numbers, the name(s) and address(es) of any insurance companies involved and the outcome of each such case, identifying specifically the nature of any relief awarded for or against you.

6a. Not relevant to issue of constitutionality of statutes involved or vagueness.

Request For Production Of Documents: attach true copies of all documents you relied upon in answering this interrogatory.

Investigations

7. If investigation(s) was/were conducted regarding the allegations in the Complaint in this case, state the name(s), address(es) and occupation(s) of each person who conducted the investigation(s); the name(s) and address(es) of the person(s) who requested the investigation, the date(s) of each such request; the dates during which the

investigation was conducted; the place(s) of each investigation; the name and address of each person who has custody of investigative reports and a general description of the contents of each investigative report.

7a. None.

Request For Production Of Documents: attach true copies of all written reports responsive to your answer to this interrogatory.

Medication

8. If at any time relevant to the allegations in the Complaint you were prescribed medication for a physical, mental or emotional condition, identify by name all medications that you were taking, the name and address of the person(s) who prescribed the medication, the name and address of the entity from whom you obtained the medication(s) and the monthly cost of the medication(s).

8a. Not relevant to issue of constitutionality or of statutes involved or vagueness.

Request For Production Of Documents: attach true copies of all documents you relied upon in answering this interrogatory and that identify the medications referred to in your answer.

General Damages

9. Itemize all general and consequential damages you claim to have suffered because of the conduct alleged in the Complaint in this case.

9a. None.

Request For Production Of Documents: attach true copies of all documents you relied upon in answering this interrogatory.

Economic Loss

10. If you claim lost wages as a result of the occurrence as alleged in the Complaint in this case, state the full amount of the wages you claim to have lost, the sources from which you would have received those wages, the dates during which you claim to have lost wages and the manner by which the total amount of your loss was computed.

10a. None.

Request For Production Of Documents: please attach copies of all documents, including your income tax returns, for the 5-year period prior to the occurrence alleged in the Complaint through the time of trial together with any other documents that show how your income loss was computed.

11. If you claim to have suffered any reduction in your ability to earn future income because of the injury alleged in the Complaint, stat the amount of future income you claim to have lost, including the means by which this future income loss was calculated.

11a. None.

Request For Production Of Documents: attach true copies of all documents you relied upon in answering this interrogatory.

Expert Witnesses

12. State the name(s), address(es) and telephone numbers of all expert witness that you and/or your attorneys will call at trial, including the name(s) and address(es) of each expert's employer, the expert's area of expertise, a summary of the experts qualifications, the facts upon which the expert testimony is based, the opinions of each expert and bases for each expert opinion.

12a. None.

Request For Production Of Documents: attach a copies [*sic*] of all reports provided to your [*sic*] or your attorneys by the expert witnesses identified in your answer to this interrogatory, as well as all other information required by Rule 26 of the Rules of Civil Procedure.

Lay Witnesses

13. State the full name, current address and telephone number of witnesses you and/or your attorneys intend to call at trial during your case-in-chief, including a summary of each witness's anticipated testimony.

13a. None.

Request For Production Of Documents: provide copies of all written or recorded state-

ments obtained from persons that you and/or your attorneys expect to call at trial during your case-in-chief.

Admissions

14. Identify all statements, admissions, acts and subsequent remedial measures that you and/or your attorneys attribute to the Defendants in this case, including a description of each such statement, admission, act and subsequent remedial measure.

14a. None.

Request For Production Of Documents: attach true copies of all documents that reflect such a statement, admission, act or subsequent remedial measure made by the Defendants in this case.

Trial Exhibits

15. **Request For Production Of Documents:** Provide copies of all exhibits that you and/or your attorneys intend to use at trial during your case-in-chief and on cross-examination, including the numbers of each such exhibit.

Contention Interrogatories

16. State the facts upon which you or ~~your attorney~~ [pro se] rely to support your contention that you are entitled to a declaration that Title 17-A M.R.S.A. § 210-A was void for vagueness under the First, Ninth and Tenth amendments of the United States Constitution.

16a. See pg. 3, line 14-19, pg. 4, line 1-17 to my Petition. My Petition states the statute is unconstitutional and or void because of vagueness and under at least the First, Ninth and Tenth amendment.

Request For Production Of Documents: attach true copies of all documents you relied upon in answering this interrogatory.

17. State the facts upon which you or ~~your attorneys~~ [pro se] rely to support your contention that Maine's "stalking statute" is defined in vague terms.

17a. See pg. 3, line 14-19, pg. 4, line 1-17 of my Petition.

Request For Production Of Documents: attach true copies of all documents you relied upon in answering this interrogatory.

18. State the facts upon which you or ~~your attorneys~~ [pro se] rely to support your contention that the laws of the United States entitled you to follow, write to, drive by, and otherwise make contact with Dr. Elizabeth Boogusch.

18a. See pg. 2, line 16-22, pg. 3, line 1-13 of my Petition. See also pg. 8, line 9-23 of my Petition and/or not relevant to issue of vagueness or constitutionality of statute involved.

Request For Production Of Documents: attach true copies of all documents you relied upon in answering this interrogatory.

19. State the facts upon which you or ~~your attorneys~~ rely to support your contention that your conduct toward Dr. Elizabeth Boogusch did not fit the statutory definition of "stalking" as defined by Title 17-A M.R.S.A. § 210-A.

19a. The statute is unconstitutional under I IX X amendments and/or void for vagueness. (No conduct is specified in the stalking complaint)

Request For Production Of Documents: attach true copies of all documents you relied upon in answering this interrogatory.

20. State why you continue to make contact with Dr. Elizabeth Boogusch even after she had repeatedly asked you not to do so.

20a. Not relevant to issue of vagueness or constitutionality of statute involved.

21. Explain why you believe that the Temporary Order on Protection and Notice of Hearing in the case of Elizabeth Boogusch v. Eugene Bowler, Rockland District Court Docket No. ROC SA 00 48 was an unlawful order of the State District Court.

21a. Not relevant to issue of vagueness or constitutionality of statute involved.

22. Explain why you told your treating physician, Dr. Elizabeth Boogusch, that you were in love with her and why you repeatedly sent her

unwanted gifts and letters and repeatedly left messages for her on her answering machine.

22a. Not relevant to issue of vagueness or constitutionality of statute involved and or pg. 8 – lines 12 to 16 of my Petition.

23. Explain why you repeatedly discussed your attraction and love for Dr. Elizabeth Boogusch with your taxi driver, Gordon Talbot, and persuaded Mr. Talbot to drive in and around the vicinity of Dr. Boogusch's house.

23a. Not relevant to issue of vagueness or constitutionality of statute involved.

24. Explain why you continued to walk around Dr. Elizabeth Boogusch's house even after she explained that she wanted no further contact with you.

24a. Not relevant to issue of vagueness or constitutionality of statute involved.

25. Explain why you threatened to report Dr. Elizabeth Boogusch to the State Board of Licensure.

25a. Not relevant to issue of vagueness or constitutionality of statute involved.

26. Explain in detail the reasons why you were a patient of Dr. Elizabeth Boogusch, describing in detail each and every medical condition for which she provided you treatment.

26a. Not relevant to issue of vagueness or constitutionality of statute involved.

Dated: Monday, February 12, 2001

Eugene B. Bowler
Eugene B. Bowler
(Pro Se)
9 Rockbrook Drive
Camden, ME 04843
Feby. 13, 2001 at
Camden, ME
Knox Co.

Office of the Attorney General
G. STEVEN ROWE

/s/
William R. Fisher
Assistant Attorney General

APPENDIX F

MANDATE

United States Court of Appeals
For the First Circuit

No. 01-1489

IN RE: EUGENE B. BOWLER,
Petitioner.

Before
Torruella, Chief Judge,
Campbell and Cyr, Senior Circuit Judges.

JUDGMENT
Entered: May 21, 2001

The petition for a "writ of prohibition" is denied.

By the Court:

PHOEBE D. MORSE, Clerk

By: /s/_____
Chief Deputy Clerk

CC: Eugene B. Bowler
William R. Fisher, Esq.

Certified and Issued
as mandate under
Fed. R. App. P. 41
/s/_____
Acting Clerk

/s/_____
Deputy Clerk

APPENDIX G

United States Court of Appeals
For the First Circuit

No. 00-2010

EUGENE B. BOWLER,
Plaintiff, Appellant,

v.

STATE OF MAINE,
Defendant, Appellee.

No. 01-1489

IN RE: EUGENE B. BOWLER,
Petitioner.

Before
Boudin, Chief Judge,
Campbell and Cyr, Senior Circuit Judges,
Torruella, Selya, Lynch and Lipez,
Circuit Judges.

ORDER OF COURT

Entered: June 29, 2001

In No. 00-2010, the motion to amend complaint is denied as untimely. In both No. 00-2010 and 01-1489, the panel of judges that rendered the decisions having voted to deny the petitions

for rehearing, and the majority of judges in regular, active service not having voted to rehear the cases en banc, it is ordered that the petitions for rehearing and suggestions for rehearing en banc be denied.

By the Court:

JANICE M. O'NEIL

Acting Clerk

cc: Amy M. Sneirson, Esq.
Paul Stern, Esq.
Eugene B. Bowler

APPENDIX H

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

EUGENE B. BOWLER,	)	
PLAINTIFF	)	
	)	
v.	)	**Civil No. 00-218-B-H**
	)	
STATE OF MAINE, ET AL.,	)	
DEFENDANTS	)	

ORDER OF MOTION TO DISMISS

The defendant's motion to dismiss is **GRANTED**. The Magistrate Judge specifically ordered the plaintiff to answer interrogatories on March 9, 2001. I affirmed her order on March 27, 2001. As of this date, the plaintiff still has refused to answer any of them. Apparently, his justification is that he filed in the United States Court of Appeals for the First Circuit a so-called Petition for Writ of Prohibition. (So he says; a copy was filed in this Court on April 2, 2001.) Putting aside the doubtful merit of such a filing in the Court of Appeals on a simple discovery dispute, I observe that never has the plaintiff sought a stay of this Court's Order. Instead, he has just ignored the Order of this Court and effectively stymied efforts to prepare the case for trial. He has, therefore, "fail(ed) to obey an order to provide or permit discovery" within the meaning of Fed. R. Civ. P. 37(b)(2). Measures of relief are enumerated in that rule. Measures (A) and (B) are inappropriate given the nature of the interrogatories posed. Measure

(E) does not apply, and I choose not to impose Measure (D) contempt, at this point. Under the circumstances, his continuing unjustified recalcitrance justifies the harsh sanction of dismissal under Measure (C). Accordingly, I do not address the other grounds of dismissal advanced by the defendants.

SO ORDERED.

DATED THIS 5TH DAY OF JUNE, 2001.

/s/
D. BROCK HORNBY
UNITED STATES CHIEF DISTRICT JUDGE

APPENDIX I

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

EUGENE B. BOWLER, Plaintiff	) **ENTERED ON**
	) **DOCKET** 6-6-01
	)
v.	) CV 00-218-B-H
	)
STATE OF MAINE, et al Defendants	)
	)

JUDGMENT

Pursuant to the Order entered by the Court on June 5, 2001, JUDGMENT is hereby entered for the Defendants and against the Plaintiff.

Dated at Bangor, Maine this 6th day of June, 2001.

WILLIAM S. BROWNELL, CLERK

/s/
Brenda DeRoche
Deputy Clerk

APPENDIX J

MAINE REVISED STATUTES ANNOTATED
TITLE 17-A. MAINE CRIMINAL CODE
PART 2. SUBSTANTIVE OFFENSES
CHAPTER 9. OFFENSES AGAINST THE PERSON

Current through 1999 1st Reg. Sess. Of 119th Legislature

210-A. Stalking

1. A person is guilty of stalking if:

A. The person intentionally or knowingly engages in a course of conduct directed at another specific person that would in fact cause a reasonable person:

(1) To suffer intimidation or serious inconvenience, annoyance or alarm;

(2) To fear bodily injury or to fear bodily injury to a member of the person's immediate family; or

(3) To fear death or to fear the death of a member of that person's immediate family; and

B. The person's course of conduct in fact causes the other specific person:

(1) To suffer intimidation or serious inconvenience, annoyance or alarm;

(2) To fear bodily injury or to fear bodily injury to a member of that person's immediate family; or

(3) To fear death or to fear the death of a member of that person's immediate family.

2. As used in this section, unless the context otherwise indicates, the following terms have the follow meanings.

A. "Course of conduct" means repeatedly maintaining a visual or physical proximity to a person or repeatedly conveying oral or written threats, threats implied by conduct or a combination of threats and conduct directed at or toward a person. For purposes of this section, "course of conduct" also includes, but is not limited to, gaining unauthorized access to personal, medical, financial or other identifying information, including access by computer network, mail, telephone or written communication. "Course of conduct" does not include activity protected by the Constitution of Maine, the United States Constitution or by state or federal statute.

B. "Immediate family" means a spouse, parent, child, sibling, stepchild, stepparent or any person who regularly resides in the household or who within the prior 6 months regularly resided in the household.

C. "Repeatedly" means on 2 or more occasions.

. . . . .

APPENDIX K

STATE OF MAINE
DISTRICT COURT

DISTRICT SIX
DIVISION OF KNOX
ROCDC-CR-2000-1083

STATE OF MAINE

v.

EUGENE S. BOWLER

DOB: 08/18/36
RESIDENCE; 9 Rockbrook Dr., Camden

COMPLAINT FOR VIOLATION OF
17-A M.R.S.A. SECTION 210-A {1.1}
STALKING – CLASS D

Chief Philip J. Roberts being duly sworn, deposes and says upon information and belief, that on a series of dates beginning on or about August 13, 1999, and ending on or about August 2, 2000, in the City/Town of Camden and Rockport, County of Knox, State of Maine, the above-named defendant,

did intentionally, knowingly or recklessly engage in a course of conduct directed at Elizabeth Boogusch, M.D. which would, in fact, cause a reasonable person and did cause Elizabeth Boogusch, M.D. to suffer intimidation or serious inconvenience, annoyance or alarm.

/s/_____

Sworn to before me, Aug 2, 2000

/s/
Deputy Clerk

Officer: Philip J. Roberts
Dept.: Camden PD
Law Incident No.: C00-2336

JAIL
Restitution:

AFFIDAVIT AND REQUEST FOR ARREST WARRANT

I, Philip J. Roberts, being first duly sworn hereby dispose and say that I am the Chief of Police with the Camden Police Department.

I further state that I have probable cause to believe and do believe that Eugene Bowler, of Camden has committed the offense of **Stalking**, pursuant to Title 17-A M.R.S.A. Section 210-A. The basis for my probable cause is contained in the attached police reports, incorporated herein and made part of this affidavit.

WHEREFORE, your affiant prays that a warrant be issued to seize the person of **Eugene Bowler** of Camden, DOB 08/13/36.

/s/

Dated: August 2, 2000

Personally appeared the above-named affiant, Philip J. Roberts, and made oath that this affidavit is true

Subscribed and sworn to before me,

/s/
Deputy Clerk

APPENDIX L

Narrative:
Complainant stated that Ugene Boler [*sic*] has been harassing her to the point of Stalking in the past month. Asked what steps she could take to prevent this. After explaining her options she stated that she would discharge him from her patient list and do this in writing] asking him to leave her alone.
Although I advised against this course of action she decided that she would call if she had any further problems with the subject.
During] my conversation with the complainant she stated that Boler has been seen wandering about her street and has sent her numerous gifts and letters, in these letters Boler has stated that he wanted her to have his children and that he was very much in love with her.
In addition to this she has been receiving numerous phone calls at home from him of a similar nature, at one point three weeks ago Boler had appeared out of nowhere while she was downtown on Bayview street and came face to face with her with these same types of statements.
Allan King

Narrative:
Lt. Roberts 2/1/00—Dr. Elizabeth Boogusch (Internal Medicine) stating that she was very uncomfortable with her relationship with a patient, Eugene Bowler. See complaint C99-2361.

Dr. Boogusch says that Bowler has brought her gifts at the office and seems to want to pursue

their relationship on a personal basis. She told me that a taxi operator, Gordon Talbot, has told her that Bowler has asked him to drive by her home (6 Cedar St., Camden) and has talked to Talbot about sexual things he (Bowler) would like to do with her.

Dr. Boogusch said she had tried to end their business relationship but that Bowler pleads with her to maintain it. Shortly after the new year he came in with caviar that she refused and he has also offered other gifts. Her office is in the Physician's Building at PBMC.

I called Gordon Talbot and tried to get confirmation on this report. He was very reluctant to talk with me and seemed hostile toward my questions in very short order. He did however confirm that Bowler has been a customer in the past and that they "had driven past her house coming back from Rockport" (Cedar St is a side street between Bayview and Chestnut St and not a direct path between Rockport and Camden center.) Talbot told me that Bowler was "quite upset" with Dr. Boogusch and intended to cancel his appointment with her.

Talbot told me that Bowler had once asked him if he could pick out the doctor's house or one that she might live in. When he picked a house Bowler told him that it was the right one. (Talbot was uncooperative and I was not able to confirm if it really was the home of Dr. Boogusch) I asked if Bowler had ever made comments of a sexual nature and Talbot told me that Bowler had once told him that he would "like to have a daughter with her." I tried to confirm that Bowler had

asked Talbot to drive him past her home (as Dr. Boogusch reported) but Talbot became very angry and eventually said he wanted to hang up. I did my best to explain that I was attempting to help Dr. Boogusch but Talbot told me he had negative contacts with the police in the past and he did not wish to talk with me.

NOTE: I have personally noted that Bowler frequently walks in the area of Bayview St. and Chestnut and have seen him walking in the area on 4-5 Sunday mornings since the end of summer. I have not noticed him on Cedar St..

It is not unusual to see Bowler walking around the center of town (I've seen that for years) but the area of Bayview and Chestnut has been a relatively new change in his pattern.) NOTE: I later spoke with Off. Wakefield about this and was told that he (Wakefield) knew of Bowler walking in this area long ago. He did not think this was anything new.

When I returned to the office (approx. 1430 - left at approx. 1350) I was told that Dr. Boogusch had called Disp. Moody while I was out. She told me that Bowler had called Boogusch office and said he was going to report her to a medical board. Moody also told me that Dr. Boogusch called him back and told Bowler that if he continued to threaten her or her staff she would have him involuntarily committed.

At approx. 1435 I called Stephanie Laite at the DA's office and conveyed this information to her. She took Dr. Boogusch office and cell phone number and agreed to call her immediately.

Stephanie called at 1500 and said that she had contated the doctor. She said this had been going on since 1998 and that he sees her about once a month. She also said that Bowler was due for an appointment on Weds. (tomorrow) and that she would make arrangement to have him served with a notice to get another physician at that time. I suggested that Rockport PD be present for that meeting.

Narrative:
Investigation Narrative

Lt. Phil Roberts is handling this case between Dr. Elizabeth Boogusch and a former patient that lives in Camden. Dr. Boogusch has filed for a PFA on this patient that has been stalking her.

On 2/2/00 at 1030 this patient may be coming to her office even though he has been told his appointment has been cancelled. If he arrives the office will be calling for a police officer to respond. At that point this patient will have to be warned on criminal trespass. It appears that this guy is obsessed with the Doctor.

Subjects name is Eugene Bowler

Cross Reference with case # C-340 #C99-2361

W.Smith
Date, Time, Reporting Officer:

Lt. Roberts—2/3/00 I called Rockport PD to get details about the planned appointment of 2/2/00. Disp. Cooley told me that it was Bill Smith's case.

I left an e-mail for Smith requesting information about this and telling him that Dr. Boogusch presently had plans to get an harassment order today.

At 1600 Dr. Boogusch came to my office. She said that she had spoken with Gordon Talbot who told her that he had denied to me that Eugene Bowler had made any sexual remarks related to her. (In fact Talbot had mentioned the remark from Bowler about wanting Dr. Boogusch to have his daughter and then had refused to talk to me). Dr. Boogusch was concerned that this might have destroyed her creditability.

She told me that Bowler had not shown up for his appointment on Wednesday.

She also told me that she had not gone to the DA's office today and mentioned that she understood that Bowler could contest the order. She did not want to go to court over this. She told me that her lawyer was Elizabeth Biddle and I suggested that she speak with her about this.

Dr. Boogusch also told me that two of her neighbors, Bob Walther and Ryan Fendler had previously seen Bowler in the area of her home (did not say when) and that at least one of them had spoken with Chief Burgess about this.

Before she left I again encouraged her to go to the DA's office for the Harassment Order.

On 2/6/00 I returned to my office at 0600 and received a voice mail from Tim Burns. He said that he had seen Bowler looking around in

the area of Dr. Boogusch home on Friday 2/4/00. He also said that he had an old letter from Bowler which had not been opened. Burns requested a return call at Dr. Boogusch office (594-2609) or at his home (236-9691).

At 1000 I called Tim Burns. He said that he had been in the area of Dr. Boogusch house after making a trip to Camden National Bank. He said that at about 3PM he saw Bowler go in the driveway of her home (afoot) and then up to the front door.

Burns told me that the office had received another letter from Bowler on Friday and it remains unopen. He will bring it in on Monday afternoon. Note: Tim Burns is the office manager for Dr. Boogusch and his wife (Dr. Burns) is the business partner of Dr. Boogusch.

2/8/00- This afternoon (1330)

LT. ROBERTS 2/13/00—Temporary order of harassment issued to Eugene Bowler at CPD at 1300.

Lt. Roberts- 2/29/00—Eliz. Biddle called ref. the letters from Bowler. I faxed two letters to her for the hearing this afternoon.

APPENDIX M

STATE OF MAINE

DISTRICT COURT
Location _____
Docket No. _____

Elizabeth Boogusch
Plaintiff

v.

Eugene Bowler
Defendant

COMPLAINT FOR PROTECTION FROM HARASSMENT (5 M.R.S.A §§ 4651 et seq.)

1. My full name, age, present street address, city and telephone number are as follows (list only your name if address is to be kept confidential): Elizabeth J. Boogusch, 45y
If different, my mailing address is:_____

2. My former residence (if different from above), which I have left to avoid harassment, is as follows, (street address, city, state):
_____

3. The full name, age, present street address, city, state and telephone number of the person harassing me (the defendant) is as follows: Eugene Bowler, 63 y, Rockbrook Dr., Camden, ME 04843

If different, Defendant's mailing address is: _____

4. I base my claim for protection from harassment on the following facts: *Describe the harassment, and include who committed it, when and where it occurred. (If additional space is needed attach another sheet.)* I am a PHYSICIAN. As my patient, MR. BOWLER repeated declared he was in love with me and sent me unwanted gifts and letters and left telephone messages on my answering machine. In the presence of a hospital security guard on one occasion and on every occasion that he presented to the office I asked him to cease this behavior and find another physician. I was recently alerted by his taxi driver, Mr. Gordon Talbot, that he was talking about me incessantly (worse than ever) and had coerced Mr. Talbot into driving around my house. He walks around my neighborhood all the time in hopes of seeing my vehicle. He has been seen by my neighbors and most recently by my office manager standing in the driveway of my home.

After officially discharging him from my practice via certified letter, he has sent me 3 letters which are in the possession of Camden Police Dept. He has threatened to "report me to the board of licensure."

I do fear him because of his unpredictable and abnormal emotional state, and I live alone.

I request that he not be allowed on Cedar Street, because witnesses have seen him walking in front of my house and onto my driveway.

5. I (have) (Have not) contacted law enforcement officials about the harassment.

I ASK THE COURT TO:

☑ (a) Order the defendant to stop harassing me.

☑ (b) Order the defendant to have no contact with me, directly or indirectly.

☑ (c) Order the defendant not to enter my residence.

☑ (d) Order the defendant to refrain from repeatedly, and without reasonable cause, following me or being at, or in the vicinity of, my home, school, business or place of employment.

☑ (e) Order the defendant to refrain from interfering with my property.

☐ (f) Order the defendant to pay monetary compensation for losses that I have incurred as the result of the harassment.

☐ (g) Order the defendant to pay my attorney's fees and court costs and to order any other necessary and proper relief.

Date: 2.10.00 /s/_____
Signature of Plaintiff

SA-011, Rev. 04/98

APPENDIX N

Narrative:

Roberts—On the afternoon of 7/27/00 John Hansen, who is known to me as a former Knox County Deputy, called my office. He informed me that he was now working as a private investigator and said that he had information that he thought I should know about.

Hansen went on to tell me that he had been contacted by Eugene Bowler of Camden with a request that he follow Dr. Elizabeth Boogusch. Hansen explained that Bowler called him saying that he had a prior relationship with Dr. Boogusch and that he wanted to have closure on it. Bowler asked Hansen to get information on what Dr. Boogusch was doing and who she was seeing. Bowler also told Hansen that he had followed Dr. Boogusch the prior evening but did not describe what this entailed.

Hansen also told me that Bowler had told him that Eric Walker had referred Bowler to him. Hansen thought that it was odd that someone from the District Attorney's Office[*sic*] would make such a recommendation and spoke with Walker about it. Walker told him that he not only had not made the recommendation, he didn't seem to know who Bowler was.

Hansen offered to meet with Bowler on Friday (7/28/00) and to tape record their conversation. He said he would cooperate with any way he could.

At approximately 1615 Hr. I received a call from Dr. Boogusch. She advised me that Hansen had called her and told her about Bowler's request. While discussing this with her she became

very upset and told me that she was sick of this. She said that Bowler is frequently in the area of her home when she goes out running in the morning and she will see him two or three times when she goes out. She said that he does not speak but stands across the road and stares at her.

Dr. Boogusch went on to say that she also sees Bowler frequently when she drives to work in the morning. She said that she has varied her route to try to avoid him but that he has been on Chestnut St. and Pascal Ave. in Rockport in the morning when she goes to work. She believes[*sic*] he is remaining in the area attempting to observe her.

I advised Dr. Boogusch that I had contacted ADA Dennis Smith and intended to contact John Hansen again in the morning.

Approximately two months ago Bowler had stopped me on the street to ask if there had been any complaints about him. He told me that he had walked in the area of Chestnut Hill Rd. and could see through the yards to the residence of Dr. Boogusch on Cedar St.. He said he was concerned that Dr. Boogusch may have moved out and wanted to know if he had been a cause for her losing her home. Bowler told me that he had[*sic*] called the landlord of the property and tried to find something out from them but that they had not given[*sic*] him any information. I informed Bowler that I did not think this was a good thing for him to be doing and confirmed with him that he was to have no contact with Dr. Boogusch.

Bowler also told me at this time that he had seen Dr. Boogusch drive be one recent morning

and have waved to her. He was concerned that she might have complained about this.

On Tuesday or Wednesday of this week Bowler had come to CPD to see me early in the morning. He again wanted to know if there had been any complaints about him. He explained that he had been in the area of Chestnut St. and Chestnut Hill the prior day and that a police cruiser had gone by him a couple of times. He was concerned that this might have been as a result of a complaint. I told him that it was not.

On Friday morning I called Hansen and asked that he proceed with his planned meeting with Bowler. He again offered to tape the conversation and I supported that. Additionally, I asked that Hansen get some sort of signed document describing the intent of the hired services arranged between he and Bowler. Hansen said that was normal procedure and agreed to do that.

Additionally[*sic*], I spoke with Dr. Boogusch attorney, Elizabeth Biddle, on Friday morning. She wanted to know what my plans were and I explained. She went on to say that there was a current agreement with Bowler that had been signed on March 2, 2000. She said that there was a part of the agreement that provided that Bowler would not be arrested for violation of the Agreement but rather that they would have to go back to court for another hearing on this matter.

On Monday morning 7/31/00, I returned to work to find that John Hansen had left a written report and two micro-cassettes[*sic*] of conversations with Bowler. The micro-cassettes[*sic*] are lengthy and I will summarize some of what they say:

Bowler began the talk by mentioning his attorney, Eric Morse. (Hansen had thought he meant Eric Walker.) He then goes on to tell Hansen about his history with Dr. Boogusch and the harassment notice. Bowler mentions what she described as unwanted gifts and concert tickets that she did not want to go to. He says that she said he was stalking her and noted that he was a fat old man and couldn't keep up to her if he wanted to.

He mentions that she has kicked him out of the practice. Bowler stops and asks Hansen if he is recording this. Hansen tells him that it was a beeper.

Bowler says that after the temporary order for months she would not take the road near Aldemere Farm and "she loved that road...but the whole thing was so unpleasant she didn't want to see me and didn't want me to see her."

May 18th she had taken the road and waved. "I almost dropped dead." Bowler went on to read the "agreement" to Hansen. (Hansen refers to it as a verbal agreement and I wonder if Bowler had the whole thing memorized.)

He mentioned that Wednesdays she goes away sometime over night. He recognizes that if she found out that she was being tailed this could cause him legal trouble.

Bowler went on saying this was a painful experience for him and wants to know if there is some way to find out if someone has boyfriends. Bowler says he would never want to scare her but asks what is more effective, asking questions or following her. Bowler indicates that she goes out on Wednesday, Friday and Saturday and immedi-

ately says that he wants no written record or electronic devices involved with this.

Bowler says that "Eric didn't want me..he said I shouldn't do it." "For a number of reasons he advised against it." Eric "Rick" Morse is Bowler's attorney.

Bowler expressed concern that if Camden Police saw Hansen in the area, that Hansen's presence could not be traced back to Bowler. He mentioned that Dr. Boogusch has a mother that lives down around Damariscotta. "If she ever thought that something like this was being done it could upset her so that it would force her out." Bowler expressed concern for being found out. He mentioned that she is a very private person.

Bowler offered to drive around and show Hansen where she lives. Bowler asks "Theoretically, could I get sued for invasion of privacy or something like that?" Hansen advises him to consult his attorney. But Bowler says that the worse thing would be if she left. Bowler goes on to speculate on Dr. Boogusch feelings toward him.

He says that she goes away a lot now.

Bowler describes her as being "so beautiful" several times. He says there is not much chance of a relationship with him (Bowler) but if she found out about this there would never ever be.

Bowler again spoke about this being confidential and compared it to an attorney client conversation.

Bowler described being able to look through[*sic*] the trees and[*sic*] see her car at her home. He expressed concern over how a judge would look at this and mentioned that she had previously implied that she had a fear of him (Bowler). "I don't know if that was true or not. If she

she thought that I was stalking her, well, this looks like I am (laugh) but not in the classic sense."

Before making a decision he again expressed concern about doing psychological damage to her. He said he would not want any electronic devices used to trail her. And again questioned if this was confidential. "Eric advised against it but you can see how it would give me piece of mind."

Bowler continues telling Hansen about gifts that he had given Dr. Boogusch. He mentioned that she wanted to give them back but kept one painting. He mentions that she admired it and "couldn't separate the gift from the giver." "When I went by there a month or so ago I could look up and still see the picture from outside of the window." He asks if someone really disliked someone would they keep a picture they gave them right in front of them?

"She's beautiful, she's a doctor and she could have any man she wants. And she doesn't want a neurotic old man." Again he expressed concern that if she ever left he would never see her again.

He describes the house, where she parks and says that most of the time she goes out to Chestnut St.. Bowler mentions that he has his phone blocked.

Hansen asks for a check and Bowler says he will pay in cash so there are no records. He then pays him $200 in cash. Hansen describes what he puts on the receipt. Bowler asks that Hansen call him back tonight.

A taped (answering machine) message is then heard with Bowler saying "Hey John, I'm

here at 5:10 and her car is there now." He goes on to say he hopes they can do it tonight.

Another call says that he thinks he saw her tonight and she was with someone and he got the license. He asks Hansen to call him back.

Another call says "She's in the house now. She may be going out today." Also "I saw her going out last night and I got her license number and I wish you call me back as soon as possible so I can give you the license plate to run."

He goes on in another call to say he was on Chestnut St. at 6:30 last night and he got the license plate number. Then at 9:20 he was walking on Bayview St. and she was back. Bowler says the date must have lasted from 6:30 when she was picked up to 9:00 when she was dropped off. "Does that seem more like going out with a woman or a man?" He gave the license number and wanted to know how long it would take to get the information.

Bowler instructs Hansen to wait a while (Hansen has told him he is on Chestnut St.) and get back to him.

Roberts- On the afternoon of Friday 7/28/00 I spoke with Dr. Boogusch in her office. I advised her that I needed a written statement from her concerning the continuing contact she has had with Eugene Bowler.

On Monday afternoon I made contact with her again and was informed she had been busy all week-end and unable to write the statement. She told me at that time that Bowler had been out on Bayview St. that morning when she went running shortly after 0600. She told me it was a regular thing. She agreed to write a statement Monday night.

On Tuesday morning (8/1/00) I was on Bayview St. in my own vehicle at approx. 0615. At that time I saw Eugene Bowler walk out Bayview St. past the intersection of Cedar St.. He paused briefly at the base of Cedar St. looking up the hill. He then proceeded out Bayview St. and turned right up Chestnut Hill Rd.. As he went up Chestnut Hill I noticed that he was looking to his right toward Cedar St. at a point 3-4 residences up the hill. I later noted that the back yard of Dr. Boogusch is in line with the area where I observed Bowler looking to his right. He then[*sic*] proceeded up Chestnut[*sic*] Hill and went left on Chestnut St.. I left the area when a vehicle from Superior Maintenance stopped[*sic*] to talk with Bowler.

When I went to the police department I asked Off. Tracy Weed if she had seen Bowler in the area of Cedar St. in the morning. Weed frequently works the shift that ends at 0600. She told me that she does see him on Main St. around 0530 most mornings. Main St. adjoins Bayview St. and is a direct path between Bowler's neighborhood and the residence of Dr. Boogusch.

Dr. Boogusch left a written statement at my office shortly after 0800 on Tuesday morning.

Later that morning Eugene Bowler called me and said that he had been talking with a friend of one of Dr. Boogusch neighbors. The neighbor had asked if Bowler was dangerous or had weapons. Bowler told me that his concern about a danger to him. He asked if I thought he was in any danger by walking on Chestnut Hill Rd.. I told him that I did not know of anyone involved with this having a history of violence.

Roberts—Again on the morning of 8/2/00 I was in the area of Cedar St. at approx. 0615. I saw Eugene Bowler walk out Bayview st. and past the intersection of Cedar St.. This morning he did not seem to look up the hill on Cedar St.. He continued on Bayview St. and turned right on Chestnut Hill, the road that parallels Cedar St.. Again, as yesterday I saw him stop and look through the trees toward Cedar St. and in the direction of the Boogusch residence.

July 30, 2000

I, John L. Hansen, have been a certified full-time Police Officer for approx. 16 years. I have attended numerous law enforcement schools and training seminars. I retired from law enforcement in 1996 and now being a licensed Private Investigator in the State of Maine, submit the following statement.

On July 24, 2000 I received a telephone inquiry from a Eugene Bowler regarding the possibility of conducting a surveillance for Mr. Bowler. Bowler indicated that he had been in a relationship with a female who was a physician at PBMC with a first name "Elizabeth" and that he needed to find out if the female was seeing someone else so that he might have some "closure" regarding this relationship. Bowler further stated that I was recommended to him by Eric Walker, whom I know as a Assistant District Attorney for Knox County.

I asked Bowler at that time if any Court action had been taken or if any restraining orders where in effect, to which he replied that there was only

an agreement between the parties that he would not have any contact with the female, but that there was nothing legally ordering him not to have contact which would involve and Court violations.

I felt at this time that there was more to this request for my services than Mr. Bowler was indicating and stated that I would be able to meet with him in person on July 25th, which would allow me time to contact Eric Walker and verify that Walker had in fact recommended me to Mr. Bowler. The meeting with Bowler was scheduled for 2PM on July 25, 2000.

On July 25th, I went to the Knox County Courthouse and met with ADA Walker. I informed him of the above situation and Walker stated that he was not familiar with Bowler and that he had not given my name to Bowler. Walker did check the court files and informed me that he was unaware of any action pending against Bowler.

As I was still concerned due to the nature of this request for my services I contacted Chief Roberts of the Camden Police Department. Chief Roberts stated that he was familiar with Bowler and that there was in fact some type of action which had taken place and that Bowler was not to have any contact with the female. Chief Roberts stated that he would do some checking and get back to me as I felt compelled not to provide any services to Bowler. I than made contact with Bowler and stated that I would be unable to meet him on the 25th, however, that I would be able to meet with him on July 26th.

On July 26th I was contacted by Chief Roberts and he advised that he had been in contact with the District Attorney's Office and that if I wished to proceed with meeting Bowler and finding out what Bowler wanted that I could do so. I informed Chief Roberts that I would meet with Bowler and if I felt that there was a safety concern for the female that I would advise the Chief.

On July 26, 2000, at approx. 1530hrs., I met with Mr. Bowler at his residence located at 9 Rock Brook Drive, Camden. Initially Bowler gave me a run-down on his situation stating that he was in love with this woman and that he needed some type of "closure", i.e., he needed to know if she was seeing someone else, whether it be a male or female. He further stated that he did not believe that she was a lesbian however the possibility existed. He stated that he knew her daily schedule and routine and wanted me to find out where she was going and who she was seeing. Bowler asked me several times how I would tail her and if I would use electronic devices for this purpose. During the course of this conversation Bowler was becoming visibly excited at the prospect of me following her and finding out where she was going. Bowler also stated that if she ever found out that she was being tailed that it could lead to legal troubles. Bowler also asked me if I was taping our conversation and wanted to know if I was like a lawyer regarding confidentiality.

After Bowler felt at ease with my ability to provide the services which he requested he asked how much the service would cost. I informed him that I charge $45. per hour and require a $250. re-

tainer. Bowler stated that he did not want anything in writing such as a report of any kind, only verbal. He also expressed concern about talking on the phone and thought maybe they where tapped.

Bowler then stated that he did want me to conduct the surveillance and I then requested a check for the retainer. He stated that he would give me cash as he did not want a record of this transaction. Bowler then gave me $200. cash and stated he did not have the full amount on hand. I gave Bowler a receipt for services rendered at that time. Bowler then wanted me to begin immediately and showed me a PBMC handbook which contains the photos of staff from PBMC. Bowler identified the woman as Dr. Elizabeth BOOGUSCH, residence 6 Cedar Street, Camden, ME. He also knew her license plate number by heart and provided same, that being ME Reg.612GE, a white Honda Civic GE.

It was approx. 1730 hrs and Bowler stated that I could check her residence first and then if she was not there to check the parking lot at PBMC. He stated that she always parks in the same spot and described where to look at PBMC. I then concluded the meeting and left the residence.

Within 5 minutes of my leaving I received a call on my cellular phone from Bowler, the number of which I had not given him. He wanted to know if I had found her vehicle. I stated that she was not home and that I was going to check PBMC. About 15 minutes later I received another call from

Bowler wanting to know if I had located her. I again stated that I had not.

Since the July 26th meeting with Bowler I have received numerous calls from Bowler. On July 27th at 0630AM, Bowler called my residence and spoke with my wife. He informed her that he had been by Boogusch's residence and that she was home the night before. I received 5 more calls on the 27th from Bowler which I screened with caller ID and did not answer. On July 28th Bowler called 7 times.

July 29th Bowler called my cellular 3 times and then left me messages on my answering machine.

July 30th as of 0730 AM, Bowler has called 3 times.

The interview with Bowler was taped and also the messages which Bowler left on my answering machine have been taped. All tapes as well as the cash given to me by Bowler have been turned over to the Camden Police Department.

Respectfully Submitted;
/s/
John L. Hansen

CAMERON L. CAMPBELL
Notary Public, Maine
My Commission Expires April 2, 2007
/s/

Sworn Before me Under Oath on July 30th, 2000

APPENDIX O

ELIZABETH J. BOOGUSCH, M.D.
INTERNAL MEDICINE
PHYSICIANS BUILDING
4 GLEN COVE DRIVE, SUITE 102-A
ROCKPORT, MAINE 04856
207-594-2609

Chief Philip Roberts,
Camden Police Department
Camden, ME 04843

July 31, 2000

Since I obtained an agreement for protection from harassment from Mr. Eugene Bowler in March 2000, the following events have taken place.

I continue to encounter him on an almost daily basis whenever I go jogging at 0600 on the Bayview-Chestnut Street loop. I first encounter him on the Camden side of Bayview Street where on one occasion I crossed the street to be on the opposite side of the street from him and he promptly followed me. I then crossed over again and he followed me a second time. I crossed over again at which point he followed a third time. I then yelled an obscenity at him and kept running. He is invariably at the top of Chestnut Street later on in the circuit. On each occasion that I encounter him, he stops walking and stares at me as I go by. I ignore him and keep running. The last time this happened was this morning.

On my way to work every morning, and very often on my way home, he is on the same road waiting for my car to go by. Once again when my car approaches, he stops and stares at me.

On May 19, 2000 I left the area on a two week vacation in France. Apparently, on or about May 23rd, he placed a phone call to my landlord, Mr. Robert Walther asking him many questions about my whereabouts (which Mr. Walther refused to answer). He asked Mr. Walther if "he (Eugene) was the reason she (myself) left the house that she loved so much".

My neighbors have seen him very frequently at the base of Cedar Street on Bayview Street looking up at my house. He is also frequently seen stopping on Chestnut Hill peering over at my house (just uphill from the Beebe's residence).

/s/
Elizabeth J. Boougsch, MD

APPENDIX P

STATE OF MAINE

SUPERIOR COURT	DISTRICT COURT
County _____	Location_____
Docket No. _____	Docket No. CR-2000-01083

STATE OF MAINE v. Eugene S. Bowler, Defendant
BAIL BOND

Defendant's mailing address 9 Rockbrook Drive, Camden, ME 04843
Defendant's residence address (if different): ___-_____
Date of Birth 08-18-36 Home telephone # 256-4708
Work telephone # ___-_____ Gender M Race Cauc
Height 75 Weight 220 Eye Color Br Hair Color Gr
Date of Offense ____ Location of Offense _____
Social Security #014-30-6759
For Title 29-A violations only, driver's license number _____ State _____
Reason for Arrest / Bail:
☒ Initial arrest, ☐ Failure to Appear at Arraignment, ☐ Failure to Appear at Hearing, ☐ Release after Arraignment, ☐ Failure to Pay Fine, ☐ Post-Conviction ☐ Other _____
Offense, Class of offense, Title and Section, Stalking / D T. 17-A MRSA § 210-A _____
Law enforcement officer and agency Off. M. Geary / Camden P.D. _____
Incident number: _____

I understand that I must obey the following conditions of my release so long as this Bail Bond remains in effect; that it is a CRIME for me to violate any of these conditions; and that if I violate any of these conditions I will be subject to immediate arrest, incarceration and, a fine.

1. I will appear at the (District) (~~Superior~~) Court located at 62 Union Street in Rockland (City/Town), Knox County) Maine, Telephone number (207) 596-2240, on September 5, 2000, at 8:30 (a.m.) (~~p.m.~~) and on whatever other date and at whatever other time and in whatever other court the clerk of the court described above tells me to appear.
2. I will commit no criminal act.
3. I will immediately advise the courts described above of any change in my address or telephone number.
4. I waive extradition to the State of Maine from any other State of the United States, from the District of Columbia, from any territory of the United States, and from any other jurisdiction whatsoever, for prosecution on the charge(s) above.
5. I will not violate any pending protection from abuse order.
6. In addition to the five conditions above, the following apply if checked:

☐ PERSONAL RECOGNIZANCE.

☒ UNSECURED. I am not required to post any security for my release, but if I fail to appear as this Bail Bond requires I will owe the State of Maine $1,000.00

☐ SECURED. To be released from custody the following property is being posted. The property is:

☐ Cash in the amount of $_____ OR ☐ See reverse for assignment. ☐ Real estate (or _____ _____) with a value of $_____

☐ Bail Lien. (Within 1 working day after today) (Before I may be released), a lien on the real estate described must be recorded in the Registry of Deeds in the country where the real estate is located, and proof of such recording must be filed with the clerk of the court listed above. (Note: Registry and Clerk's Office may be in different counties.)

☐ Additional conditions to which I agree to obey are: _____

☒ As a condition of my release, I shall comply with any condition(s) set forth on the CONDITIONS OF RELEASE form, which I have reviewed and understand. I understand all of my obligations under this bond. Defendant: /s/_____

I have explained the Defendant's (and if applicable, the surety's) obligations under this bond on this date and will give a copy of this form to the Defendant and surety immediately after I sign it.

Dated: August 3, 2000, at 10:13 am / ~~pm~~ at Rockland, Maine.

/s/_____
Bail Commissioner

APPENDIX Q

STATE OF MAINE

SUPERIOR COURT	DISTRICT COURT
_____, ss	Location_____
Docket No. _____	Docket No. CR-2000-01083

STATE OF MAINE v. Eugene S. Bowler
OFFENSE(S) Stalking

☐ COMMITMENT ORDER WITH CONDITIONS OF RELEASE ☐ CONDITIONS OF RELEASE 15 M.R.S.A. § 1023

Defendant shall be held at the (Knox County Jail) (~~Department of Corrections~~
☐ without bail ☐ as indicated on attached Bail Bond form ☐ until bail is posted as follows:

☐ PERSONAL RECOGNIZANCE.

☐ UNSECURED. Defendant is not required to post any security to secure release, but if defendant

fails to appear as the Bail Bond requires defendant shall owe the State of Maine $1,000.00

☐ SECURED. To be released from custody the following property is to be posted.

☐ Cash in the amount of $_____ OR

☐ Real estate (or ___) with a value of $__

☐ Bail Lien. (Within 1 working day after today) (Before defendant may be released), a lien on the real estate described must be recorded in the Registry of Deeds in the county where the real estate is located, and proof of such recording must be filed with the clerk of the court listed above. (Note: Registry and Clerk's Office may be in different counties).

The following special condition(s) also apply to the Defendants release:

☐ Defendant shall ☐ maintain or actively seek employment ☐maintain or commence an education program.

☐ Defendant shall not possess or use alcoholic beverages or scheduled drugs, and shall submit to a chemical test and search of defendant's person, premises and vehicle upon the request of any police or probation officer to determine whether the defendant is in violation of this condition.

☐ Defendant shall participate in ☐ substance abuse ☐ _____ counseling.

☒ Defendant shall abide by the following restrictions on personal associations, place of abode, or travel: Defendant shall not travel within 1,000 feet of the place of business of*

☒ Defendant shall have no contact or communication, direct or indirect, with any of the following persons: Elizabeth Boogusch, M.D.

☐ Defendant shall report ☐ in person ☐ by telephone to ☐ a probation officer ☐ defendant's attorney or to the following agency and shall provide to the probation officer, attorney or agency any information requested

for the purpose of ascertaining defendant's whereabouts, as follows: _____

☐ Defendant shall comply with the following curfew: _____

☒ Defendant shall not possess any firearm or othe r dangerous weapon.

☐ Defendant shall undergo medical or psychiatric treatment at _____

as an ☐ outpatient ☐voluntary inpatient.

☒ Other: Defendant shall not travel within 1,000 feet at the residence, or enter the residence of Elizabeth Boogusch at 6 Cedar St., Camden, ME

If the Defendant makes bail, the Defendant is required to appeal

- ☒ as shown on the Bail Bond in the (District) (~~Superior~~) Court in Rockland, Maine
- ☐ at such time as advised by the clerk of that court.
- ☐ for arraignment on (date) __ at ___ (am)(pm)
- ☐ for trial on (date) ____ at ___ (am)(pm), or if transferred to the Superior Court sitting in ____ County, to appear at the Superior Court in accordance with all orders of that Court.

(This Conditions of Release form to be attached to defendant's Bail Bond.)

*Elizabeth Boogusch, M.D. at Rockport, ME

Date: 08-03-00 /s/_____
Bail Commissioner

COURT

APPENDIX R

LETTERS FROM DEFENDANT TO PLAINTIFF IN HARASSMENT CASE:

Letter 1:
Rx
E. Boogusch

Liz:

I regret that you are not professional enough to tell me in person or at least by phone why you are dropping me as a patient. Why did you have to hide behind an employee? It is also regrettable you are not used to caviar you seem to enjoy bananas! When you are eighty you will be creeping around the wards of your domain at PBMC at 3:41 a.m. sucking up crumbs of gratitude from harmless, hopeless and helpless dying patients. As you said you are not a very nice person, indeed hardly a person at all, as you have no heart just a monstrous huge brain!

See my darling beauty what you caused me to write, yet you are still a sweet little girl from your cute little feet to your crowning auburn glory.

With love forever,

Gene

February 2, 2000
Camden, Maine

Letter 2:

Dear Dr. Boogusch:

My worst fear being out of your friendship has come to pass; as you know my greatest horror was the thought of never seeing you again yours was probably the inverse function of this! This is especially sad for me as I complied with all your orders after our talk of September 8th and you listen to a rather self righteous person who was very hostile to me and would give me no chance to respond. I now realize you can't tolerate being trapped in a long term commitment; I should have been content to see you every few months and PRN instead of pressing for more. Still I don't feel I deserve to be kicked out as this is very painful and a source of great sadness – the ultimate punishment. It is not a little scary to be without an understanding physician as I fall into old age. I am sorry for any anguish this matter has caused you and regret even more that you are in a mood of anxiety and hostility towards me for all I every had for you was affection and respect. Anxiety and hostility are heavy burdens to bear and I would suggest there antidote is existential and transcendental love. I apologize for my note of February 2 it was sent in deep hurt and sorrow. Please have mercy on me and retain me. I wish you peace dearest Elizabeth.

Cordially,

Eugene Bowler
February 9, 2000
Camden, Maine

APPENDIX S

STATE OF MAINE

Knox, ss.

DISTRICT COURT
District Six
Division of Knox
Docket No. ROCDC-CR-00-1083

State of Maine,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Accord and Satisfaction
	)	
Eugene Bowler,	)	
	)	
Defendant.	)	

WHEREAS, the parties to this Agreement have been fully advised of the facts; and

WHEREAS, the parties are interested in resolving a dispute existing between them as individuals and the State of Maine as a result of an allegation of Stalking pursuant to 17-A M.R.S.A. §210-A brought by the State of Maine against Eugene Bowler, alleging stalking against the person of Elizabeth J. Boogusch; and

WHEREAS, the parties desire to use the provisions of 15 M.R.S.A. §891 for the purpose of resolving the alleged CLASS D offense committed by Eugene Bowler, upon the person of Elizabeth J. Boogusch, who has a remedy be civil action; and

WHEREAS, that statute requires a writing acknowledging satisfaction for the alleged offense by the said Eugene Bowler, for the benefit of Elizabeth J. Boogusch, to terminate the case of

the State of Maine, all as is more fully provided in that statute.

NOW THEREFORE, the parties agree as follows:

That the said Elizabeth J. Boogusch hereby acknowledges satisfaction and acknowledges consideration of One Dollar or other valuable considerations, including imposition of a Protection from Harassment Order, receipt whereof is also acknowledged. The said Elizabeth J. Boogusch hereby appears before the Court and in writing acknowledges satisfaction for the alleged offense and agrees that the civil action existing by right in her by virtue of the law is terminated.

IN WITNESS WHEREOF, I, Elizabeth J. Boogusch, hereunto set my hand and seal this 19th day of October 2000.

/s/_____ /s/_____
Witness Elizabeth J. Boogusch

It is hereby ORDERED that all further proceedings are stayed and the Defendant Eugene Bowler is hereby discharged.

Dated: 10-19-00

/s/_____
Judge, Maine District Ct.

APPENDIX T

STATE OF MAINE

DISTRICT COURT
Location Rockland
Docket No. ROC-SA-00-48

Elizabeth Boogusch Plaintiff

v.

Eugene Bowler Defendant

ORDER FOR PROTECTION
(19-A M.R.S.A § 4007)
(5 M.R.S.A. § 4655)

After due notice and full hearing on the merits of the Complaint for Protection from ~~Abuse~~ / Harassment, and the following parties being present: ☒ Plaintiff ☒ Defendant,

THE COURT FINDS THAT:

☐ (1) The parties are family or household members;
☐ (2) the plaintiff was abused / harassed by the defendant.
☐ (3) the defendant presents a credible threat to the physical safety of the plaintiff/minor child(ren);
☒ (4) the parties have agreed to the following Order, which is made without findings of abuse / harassment:

THEREFORE, it is hereby ORDERED that:

☒ (A-1) The defendant is prohibited from threatening, assaulting, molesting, attacking, harassing or otherwise abusing the plaintiff

☐ (A-2) The defendant is prohibited from the use, attempted use, or threatened use of physical

force that would reasonably be expected to cause bodily injury against the plaintiff

☒ (B) The defendant is prohibited from having any contact, direct or indirect with plaintiff.

☒ (C) The defendant is prohibited from going upon the premises of the plaintiff's residence.

☒ (D) The defendant is restrained from, repeatedly and without reasonable cause, following the plaintiff.

☐ (E) The defendant is restrained from, repeatedly and without reasonable cause, being at or in the vicinity of the plaintiff's home, school, business or place of employment.

☒ (F) The defendant is prohibited from interfering with plaintiff's property.

☐ (G) The defendant is prohibited from possession of firearm or other dangerous weapon.

☐ (H) The plaintiff is granted possession of and the defendant is excluded forthwith and prohibited from entering the residence at _____
_____

☐ (I) The parties' personal property and household goods are divided as follows: _____

☐ (J) The plaintiff is awarded primary residence of minor child(ren), whose names and dates of birth are as follows: _____
The defendant's rights of contact are limited as follows: _____

☐ See the attached additional sheet(s) which are incorporated herein by reference.

A VIOLATION OF ANY ABOVE ORDER IN PARAGRAPHS "A" THROUGH "J" IS A CLASS D CRIME. IF BOXES 3 or A-2 ARE CHECKED POSSESSION OF A FIREARM OR DANGEROUS WEAPON IS A CLASS D CRIME.

It is further ORDERED that:

☐ (K) The defendant receive counseling from a social worker, family service agency, mental health center, or psychiatric or other guidance service, to wit: _____

☐ (L) The defendant pay the sum of $_____ per (week) (month) toward the support of the plaintiff, first payment due _____.

☐ (M) The defendant pay to the plaintiff, the sum of $____ forthwith, as monetary compensation for losses suffered as a direct result of the abuse / harassment, execution to issue.

☐ (N) The defendant pay to _____ the sum of $____ as (counsel fees) (court costs). Payment to be made within _____ days, execution to issue.

☐ (O) The defendant shall pay child support pursuant to the attached child support order.

☒ (P) It is further ORDERED: That defendant not be within 1000 feet of Plaintiff's residence at 6 Cedar Street, Camden as shown on attaché sketch; Defendant not be at Physcian's Building at PBMC unless for scheduled appointment and after notifying Camden Police Department.

☐ See attached additional sheet(s) which are incorporated herein by reference.

VIOLATION OF PARAGRAPHS "K" THROUGH "P" IS CONTEMPT OF COURT.

WARNING TO THE DEFENDANT: AS LONG AS THIS ORDER IS IN EFFECT, YOU MUST OBEY IT. NO ONE, INCLUDING THE PLAINTIFF, CAN GIVE YOU PERMISSION TO VIOLATE THE PROVISIONS OF THIS ORDER.

☐ No child support order is issued at this time (but will be issued as soon as the parties file a child support affidavit, to be filed no later than _____).

☐ No child support order is issued at this time because there is a pre-existing child support order.

These orders are effective forthwith and shall remain in full force and effect until 10-18-01, unless earlier modified or vacated by order of the court.

Copies of this order shall be furnished by the clerk to the law enforcement agency with jurisdiction in the location of the plaintiff's residence. It is ORDERED that a copy of this ORDER be served in hand on the defendant by _____
(*law enforcement agency*)

Date: 10-19-00 /s/_____
Judge, District Court

A true copy, attest: _____
(Deputy) Clerk

****

STATE OF MAINE

_____, ss.

On _____, I made service of the Order for Protection by delivering a copy in hand to the defendant at _____

Defendant's Social Security Number _____
Defendant's date of birth _____

_____
Authorized Officer